Press Release

It Isn't Personal, FTC

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The Federal Trade Commission (FTC) recently issued for public comment a proposed enforcement policy statement signaling aggressive prosecution against businesses using personalized pricing strategies without "clear and conspicuous" disclosures. In a new insight, Director of Competition Policy Fred Ashton explains why the FTC should focus Section 5 enforcement on clear instances of fraud and misrepresentation.

Key points:

- Personalized pricing occurs when sellers use detailed individual customer data to charge a customized price; a firm using personalized pricing will ultimately have some customers paying above what would typically be a uniform price while other customers pay less.
- The FTC intends to target this practice whenever consumers "reasonably expect" uniform pricing and where the merchant fails to satisfy disclosure requirements outlined by the agency.
- Grounding enforcement in a subjective "consumer expectations" framework creates ambiguity that could chill pricing innovation and competition, lead to subjective enforcement, and deny consumers the benefits that personalized pricing can deliver.

Read the analysis.